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June 19, 2018

Carole B. Reiss v. Melitina Hernandez, et al., No. 17-cv-159 (WHP)

Dear Judge Pauley:

I am *pro bono* counsel for Plaintiff Carole B. Reiss and appeared in this action on May 2, 2018 for the limited purpose of representing Ms. Reiss at depositions. On behalf of Ms. Reiss, I write to respectfully request a limited extension of the deadline for fact discovery, which expired on June 1, 2018, to permit the taking of depositions of individual Defendants Melitina Hernandez and Jennifer Johnson. Defendants do not object to this request.

As Ms. Reiss's former supervisors, Ms. Hernandez and Ms. Johnson each have unique knowledge concerning Ms. Reiss's allegations of employment discrimination and retaliation. I requested deposition dates from Defendants during the fact discovery period, but Defendants' counsel and I were unable to confirm available dates before June 1, 2018. Defendants' counsel has confirmed that Ms. Hernandez is available to be deposed on June 27, 2018, and Ms. Johnson is available to be deposed on July 11, 2018.

Defendants filed an Answer to Ms. Reiss's Second Amended Complaint on May 23, 2018. The Parties have exchanged initial disclosures. The Defendant Department of Education has responded to Ms. Reiss's interrogatories, and Defendants have produced documents in response to Plaintiffs' requests.¹ No other discovery has been taken of the individual Defendants.

¹ Although Defendants do not object to the extension requested in this letter or to most its contents, Defendants object to the inclusion of the phrase "The Defendant Department of Education has responded to Ms. Reiss's interrogatories" because it does not state that "*The Defendants* have responded to Ms. Reiss's interrogatories". Although the Department of Education served verified responses to Ms. Reiss's interrogatories, those responses have not been verified by Ms. Hernandez or Ms. Johnson. *Cf.* Federal

Ms. Reiss was deposed on May 23, 2018. In response to Defendants' Second Set of Document Requests, which Defendants served on June 1, 2018 following Ms. Reiss's deposition, Ms. Reiss has produced documents.

The Parties jointly requested two prior extensions of the deadline to complete fact discovery, on February 14, 2018 and April 6, 2018. (ECF Nos. 37, 42.) Both requests were granted. (ECF Nos. 38, 43.)

I appreciate the Court's consideration of this request, and I am available to answer any questions the Court may have.

Respectfully submitted,



M. Brent Byars

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Copy to:

All Counsel of Record

VIA ECF

Rule of Civil Procedure 33(b)(5) ("The person who makes the answers [to interrogatories] must sign them"). When Plaintiff requested that the individual Defendants verify the responses, the individual Defendants declined to do so and took the position that the interrogatories Ms. Reiss had served "were directed to the DOE only". While Ms. Reiss does not presently seek to compel the individual Defendants to respond to her interrogatories, the lack of interrogatory responses from them further supports her request for their depositions.